

SOLID WASTE - HAZARDOUS WASTE

HAZARDOUS WASTE DISPOSAL

1. Types of Activities Regulated

A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes, demonstrates any of the characteristics of ignitability, corrosiveness, reactivity or toxicity under standard test procedures, or is a mixture of any waste and one or more listed hazardous wastes. Hazardous wastes may only be transported, stored, treated, disposed of or used for the purposes of resource conservation or recovery in a manner consistent with state and federal law. Hazardous wastes must be properly contained and labeled.

A permit from the Montana Department of Environmental Quality (DEQ) is required to construct or operate a hazardous waste management facility for the treatment, storage or disposal of hazardous wastes.

Certain wastes are exempt from the regulations of the Montana Hazardous Waste Act: for information on these exempt wastes, contact the DEQ.

Statute: 75-10-401, *et seq.*, MCA (Montana Hazardous Waste Act)

Rule: ARM 17.53.101, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

The permit application for a hazardous waste management facility is divided into two parts, A and B. Part A is a short standard form calling for general information that includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements.

A permit may be issued for a period specified by the DEQ, and is subject to either renewal or revocation depending on compliance with the permit's provisions.

Statute: 75-10-406, MCA

Rule: ARM 17.53.1201 and 1202

3. **Permitting Procedures**

- 1) The DEQ may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit.
- 2) The DEQ may grant permits to certain hazardous waste management facilities if the owner or operator already holds a license or permit from the DEQ pursuant to other state environmental statutes, or for an interim period, until final administrative action on a permit application is made.
- 3) If it is determined that an application for a certificate under the Montana Major Facility Siting Act (MFSA) will result in the generation, transportation, storage or disposal of hazardous wastes, the DEQ must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the MFSA. See MAJOR FACILITY SITING, p. 47.

Statute: 75-10-405, 406 and 407, MCA

4. **Fees**

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(1)(i), 432 and 433, MCA

Rule: ARM 17.53.112

5. **Criteria**

The DEQ may deny an application or impose conditions on a permit if the applicant, within the five years before the date of application, has a record of complaints and convictions for the violation of environmental protection laws. In making the decision to deny a permit or impose conditions, the DEQ will consider the number and severity of the violations, the culpability and cooperation of the applicant and other factors.

Statute: 75-10-427, MCA

6. **Additional Information**

A. Generators/Transporters

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including the use of a manifest system for tracking the movement of all hazardous wastes.

Persons who generate hazardous waste (with certain exceptions) are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number.

Persons who transport hazardous wastes are required to notify the DEQ and to obtain an identification number. A hazardous waste transfer facility must also comply with regulations established by the DEQ.

Rule: ARM 17.53.601, *et seq.* and 17.53.701, *et seq.*

B. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of Environmental Review for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under the act.

Statute: 75-10-408, MCA

INCINERATORS - HAZARDOUS WASTE/BOILERS AND INDUSTRIAL FURNACES

1. **Types of Activities Regulated**

A permit is required for a boiler and industrial furnace that burns hazardous waste or for a hazardous waste incinerator. The owner or operator must submit an application to the Montana Department of Environmental Quality (DEQ) prior to construction or operation. In addition, the applicant must obtain an air quality permit, or if applicable, an air quality permit modification from the DEQ prior to construction or operation (see AIR QUALITY PERMITS, p. 32).

Statute: 75-10-401, *et seq.*, MCA

Rule: ARM 17.53.801, *et seq.* (hazardous waste incinerators)
ARM 17.53.1001, *et seq.* (BIFs)

40 C.F.R. § 264, subpart O (hazardous waste incinerators)
40 C.F.R. § 266, subpart H (BIFs)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau
Waste and Underground Tank Management Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. Application Requirements

The permit application is divided into two parts, A and B. Part A is a short standard form calling for general information which includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements. Part B must also contain the *trial burn plan*, describing the engineering details of the system and outlining a plan for demonstrating compliance with performance standards, and for establishing limits on certain operating conditions that will become part of the facility's permit.

Statute: 75-10-405 and 406, MCA

Rule: ARM 17.53.1201 and 1202

3. Permitting Procedures

- 1) The applicant must submit parts A and B of the application to the DEQ.
- 2) The DEQ conducts a completeness review of the application to determine that all required information and documents have been included in the application. If the application is incomplete, the agency issues a Notice

of Deficiency (NOD). When the applicant has submitted all the required information and documentation, the DEQ will issue a notice of completeness.

- 3) The DEQ then conducts a technical review, analyzing the technical information submitted in the application to determine whether the facility will meet the appropriate requirements. Additional NODs may be issued.
- 4) The DEQ will then issue a draft permit or a notice of denial.
- 5) Public notice is given and a public hearing is held.
- 6) The DEQ then makes a final decision and issues a final permit. The department must respond to public comments on the final permit and must indicate where changes to the draft permit have been made.
- 7) If applicable, appeals are made. The facility owner/operator may challenge the denial of a permit or a condition of a permit.

4. Fees

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(1)(i), 432 and 433, MCA

Rule: ARM 17.53.112

5. Additional Information

Commercial Medical Waste or Hazardous Waste Incinerators

Commercial medical waste and commercial hazardous waste incinerators have special requirements in addition to those under the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 32); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 139), Commercial medical waste and commercial hazardous waste incinerators must achieve the lowest achievable emission rates as identified by DEQ rules for dioxins, furans, heavy metals and other hazardous air pollutants to prevent risk to public health. The plan for a commercial hazardous waste incinerator must include a scheme for the cessation of burning if site-specific monitoring determines that inversion conditions, as defined by DEQ rule, exist. If the facility is close to a populated area, the department may require the owner or operator of an existing

commercial hazardous waste incinerator or an applicant for an air quality permit for a commercial hazardous waste incinerator to provide telemetering service to the DEQ with an immediate notification system activated when emissions approach or exceed permitted limits.

The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau
Waste and Underground Tank Management Bureau

Statute: 75-2-230 and 231, MCA

Rule: ARM 17.8.740, *et seq.*

A statement disclosing if the applicant has had a record of complaints and convictions for the violation of environmental protection laws is required for the issuance, transfer or alteration of an air quality permit for a commercial medical waste or commercial hazardous waste incinerator. The DEQ may deny an application or impose conditions on a permit based on an applicant's compliance history.

Statute: 75-2-232 and 233, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

METHAMPHETAMINE LABS - CLEANUP OF CLANDESTINE OPERATIONS

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) has the authority to establish minimum standards for the training and certification of clandestine methamphetamine laboratory (CML) cleanup contractors and their employees (cleanup workers and supervisors) who are to perform assessment or remediation of inhabitable property contaminated by precursors of meth manufacture or meth residues. If a property owner chooses to decontaminate a CML under the CML Program, the property owner must use certified CML workers, supervisors and contractors.

Statute: 75-10-1304, MCA

Rules:¹ ARM Title17, chapter 74, subchapter 5

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Certification Requirements

A person seeking certification as a CML cleanup worker or supervisor must submit a properly completed application form, along with a fee, to the DEQ. The applicant must also complete a CML training course approved by the DEQ and provide evidence of successful completion of Hazardous Waste Operations and Emergency Response training (29 C.F.R. 1910.120).

A person or company seeking certification as a CML contractor must submit evidence of DEQ certification for each employee who will work at a CML site, documentation that the contractor has at least one DEQ certified CML supervisor and one DEQ certified CML worker, a properly completed CML contractor application form and a fee.

Certification of CML workers, supervisors and contractors is valid for two years from the date of issuance.

Statute: 75-10-1304, MCA

Rule: ARM Title17, chapter 74, subchapter 5

3. Fees

All persons seeking certification or certification renewal for CML worker, supervisor or contractor must submit fees with their certification applications. Fees are nonrefundable and must be in the form of check or money order made payable to the DEQ.

The fee to be submitted with each initial, renewal or reciprocal CML worker, supervisor or contractor application is \$500.

Statute: 75-10-1304, MCA

Rule: ARM Title17, chapter 74, subchapter 5

¹ The administrative rules implementing the CML Program have been drafted and will be final in early 2006.

MOTOR VEHICLE WRECKING FACILITIES

1. Types of Activities Regulated

An annual license is required from the Montana Department of Environmental Quality (DEQ) to operate a motor vehicle wrecking facility. Possession at a single location of four or more junk vehicles is presumptive evidence that the possessor is operating a motor vehicle wrecking facility. One or more junk vehicles at a single location must be shielded from public view.

Statute: 75-10-502, 505 and 511, MCA

Rule: ARM 17.50.201, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

An application for a license to operate or maintain a private wrecking facility or a county program junk vehicle graveyard can be obtained from the DEQ and must include certification from the appropriate local government office that the proposed facility does not violate local zoning ordinances. The DEQ will consider the effect of the proposed facility on adjoining landowners and land uses and will inspect the property before issuing a license. Rules regarding what materials may be used for shielding the facility from public view must be met. The license expires on December 31st of the year issued.

Statute: 75-10-504, 511 and 516, MCA

Rule: ARM 17.50.201-204

3. Permitting Procedures

- 1) The DEQ will continue to process an application that the local government has certified as complying with local zoning ordinances. Applications certifying that the facility does not comply are denied. If the local government makes no statement, then the DEQ will make its own determination.
- 2) The DEQ may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud or rule violation.

- 3) The DEQ's decision to deny, suspend or revoke a license may be appealed by the applicant to the Board of Environmental Review within 30 days of the decision.

Statute: 75-10-514 and 515, MCA

Rule: ARM 17.50.201 and 206

4. **Fees**

The DEQ requires an annual fee of \$100 for a motor vehicle wrecking facility license.

Statute: 75-10-511, MCA

5. **Additional Information**

The owner of a motor vehicle wrecking facility must keep a record of every junk vehicle obtained and mail a quarterly report to the Montana Department of Justice, Motor Vehicle Division with the required information.

Contact: DEPARTMENT OF JUSTICE
Motor Vehicle Division
Title and Registration Bureau

Statute: 75-10-512 and 513, MCA

Rule: ARM 17.50.207

RADIOACTIVE WASTE DISPOSAL

1. **Types of Activities Regulated**

Disposal of a *large quantity* of radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research and medical, etc.) are exempt from this prohibition.

Statute: 50-79-101 and 302, MCA (Montana Nuclear Regulation Act)

Contact: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Quality Assurance Division

SOLID WASTE DISPOSAL (NONHAZARDOUS)

1. Types of Activities Regulated

A license is required from the Montana Department of Environmental Quality (DEQ) for the disposal of solid waste and for the operation of a solid waste management system. In certain circumstances, the on-site disposal of solid wastes from a person's household or farm and certain categories of on-site industrial waste disposal operations are excluded from this licensing requirement. Sites are approved and licensed by the DEQ and validated by local health officials. *Solid waste* means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals; discarded home and industrial appliances; and wood products or byproducts and inert materials. Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes, slash and forest debris regulated by the Montana Department of Natural Resources and Conservation or marketable wood byproducts.

Megalandfills—landfills that receive more than 200,000 tons of solid wastes per year or monofills that receive more than 35,000 tons of either fly ash or bottom ash per year—are subject to additional siting and licensing controls. (An existing solid waste landfill that accepted 100,000 tons a year of solid waste as of December 31, 1991 is not considered a megalandfill until it accepts more than 300,000 tons a year of solid waste.) The Board of Environmental Review (BER) must issue a certificate of site suitability before a megalandfill may be constructed. Social, environmental and economic impacts of the proposed landfill must be considered in the review process. The DEQ's licensing process and the BER's certification process must proceed concurrently and in a coordinated fashion.

Statute: 75-10-201, *et seq.*, MCA (Solid Waste Management Act)
75-10-901, *et seq.*, MCA (Megalandfill Siting Act)

Rule: ARM 17.50.501, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

A person applying for a license to conduct solid waste disposal or to operate a solid waste management system must submit a license application to the DEQ on forms furnished by the department. The application must include the applicant's name and

business address, the location of the proposed facility, the plan of operation and other information as requested.

Statute: 75-10-221(2) and (3), MCA

Rule: ARM 17.50.508 and 509

3. **Permitting Procedures**

- 1). Time Requirements: The DEQ will notify the applicant if additional information is required. The department must notify the local health officer within 15 days of receipt of the completed application.
- 2). An Environmental Assessment (EA) is conducted during the solid waste application review process. If indicated by the EA, an Environmental Impact Statement (EIS) may be required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 118).
- 3). Public Notification, Hearings, Appeal of Denial
 - 1) The DEQ must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.
 - 2) Publication of the proposed decision is required in local newspapers and by electronic means.
 - 3) The public has 30 days to submit written comments.
 - 4) The DEQ notifies the local health officer of the final decision after the 30-day comment period. The local health officer then has 15 days to validate or refute the decision.
 - 5) If either the DEQ or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rule: ARM 17.50.513 and 514

4. Fees

The DEQ charges a license application fee for any new solid waste management facility or for a substantial change to an existing facility. The department also charges an annual license renewal fee to cover the costs of annual renewals and inspections. Disposal facilities pay a base fee for the type and size of the facility, and an annual per-ton fee on wastes received by the facility. This disposal fee is set at 40 cents per ton for in state waste, and an additional 27 cents for out-of-state waste. All fees are deposited into an earmarked revenue account and are used to support a portion of the costs of the DEQ's solid waste program.

Statute: 75-10-115 and 118, MCA

Rule: ARM 17.50.410, 411, 415 and 416

5. Additional Information

A. Variances

A person may apply to the Board of Environmental Review for a variance from the rules issued pursuant to the Montana Solid Waste Management Act. The Board may grant a variance if it finds that 1) failure to comply with the rules does not result in a danger to public health or safety, or 2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

Rule: ARM 17.50.602-603, 605-606 and 609-611

B. Cesspools, Septic Tanks and Privies

See SEPTIC TANKS, CESSPOOLS AND PRIVIES, p. 173).

UNDERGROUND STORAGE TANKS

TANK INSTALLERS AND INSPECTORS

1. Types of Activities Regulated

Those who install, close, inspect or oversee the installation, closure, compliance or inspection of underground storage tanks (UST) must have a valid license issued by the

Montana Department of Environmental Quality (DEQ). Within 30 days of completion of a UST system activity, the licensee must submit a completed checklist and a copy of the signed permit to the department and to the owner or operator of the tank. A permit is required from the DEQ for most tank work on certain tanks (see exemptions on the following page). All UST facilities must have a compliance inspection conducted by a DEQ-licensed compliance inspector every three years.

Statute: 75-11-201, *et seq.*, MCA (Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act)
75-11-509, MCA (Montana Underground Storage Tank Act)

Rule: ARM 17.56.1301, *et seq.* and 17.56.1401, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

An applicant for a license must be at least 18 years of age, submit a license application on a form provided by the DEQ, pass the licensing examination and pay the required fee.

Statute: 75-11-210, MCA

Rule: ARM 17.56.1401, *et seq.*

3. Fees

The license application and examination fee is \$100 and the annual renewal fee is \$100.

Rule: ARM 17.56.1404

TANK OWNERS AND OPERATORS

1. Types of Activities Regulated

Tank Registration and Standards: Owners and operators of underground storage tanks (USTs) and aboveground storage tanks with underground lines must register each tank with the Montana Department of Environmental Quality (DEQ). UST registration fees

are assessed annually even for tanks that are out of service. Tank systems must meet certain standards for construction and design, corrosion protection and leak detection.

Permits for Tank Installations, Modifications, Repairs or Closures: The DEQ requires permits for tank or piping installations or closures, for modifications, linings or repairs, and for the installation of cathodic protection (to prevent corrosion) and vapor or ground water monitoring wells at existing installations. See also TANK INSTALLERS AND INSPECTORS, p. 150.

Operating Permit: An owner or operator of a UST may not place a regulated substance in or otherwise operate a tank unless the DEQ issues an operating permit.

Exemptions: Certain underground tanks are exempt from the provisions of the Montana Underground Storage Tank Act, including: noncommercial motor fuel tanks and heating oil tanks and their underground piping *provided that* 1) they are located at farms or residences, 2) they have a capacity of 1,100 gallons or less and 3) they were installed prior to April 27, 1995.

Statute: 75-11-501, *et seq.*, MCA (Montana Underground Storage Tank Act)
42 U.S.C. §§ 6901-6987 (federal Resource Conservation and Recovery Act)

Rule: ARM 17.56.101, *et seq.* and ARM 17.56.803(15)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. **Application Requirements**

Permits for Tank Installations, Modifications, Repairs or Closures: Permit applications must be submitted at least 30 days before beginning any tank work. In the event of an emergency requiring immediate UST system work, the DEQ may issue an emergency permit valid for no more than 10 days.

Operating Permit: In order to obtain an operating permit, the owner or operator of a UST system must file with the DEQ an inspection report signed by a licensed inspector that certifies that the operation and maintenance of the tank complies with relevant DEQ laws and rules.

Rule: ARM 17.56.308 and 17.56.1301, *et seq.*

3. **Installation, Operation and Closure Requirements**

Permits for Tank Installations, Modifications, Repairs or Closures: Tank installations or closures must either be completed by a person licensed for UST work, or if completed by the owner or operator, then the work must be inspected by a licensed inspector. For tank installations, the licensee, owner or operator must certify that the tank and piping are properly installed according to industry codes, that the tank and piping are protected from corrosion, that the system will be monitored to detect a release within a 30 day period and that the tank is equipped with devices that prevent spills and overfills. A licensee, owner or operator must notify the DEQ of a suspected or actual leak within 24 hours of discovery. The owner or operator must retain proof of financial responsibility on file guaranteeing that cleanup costs can be paid should a tank leak occur. For tank closures, an environmental site assessment must be conducted that includes the collection and analysis of soil samples to evaluate the condition of the site after tank closure or removal. See PETROLEUM TANK RELEASE CLEANUP FUND, below.

Operating Permit: The DEQ will issue an operating permit and tag for each UST in compliance with the program's requirements. The operating tag must be visibly fastened to each tank's fill pipe or to another visible part of the tank if attaching the tag to the fill pipe is impracticable. If an operating permit expires or is revoked, tags must be removed and returned to the DEQ. The department may authorize a temporary permit for tanks that do not meet the operating permit requirements. The DEQ will require that the noncompliance be corrected at the earliest practicable time. Operating permits are valid for 3 years.

Rule: ARM 17.56.308, 309 and 17.56.1301, *et seq.*

4. **Fees**

The annual registration fee for a tank with a capacity of 1,100 gallons or less is \$36, and for a tank with a capacity greater than 1,100 gallons is \$108. Fees are assessed even if the tank is out of service.

Permit review and inspection fees are assessed for tank installations, closures and modifications. Fees vary according to the type of tank and the intended work.

Rule: ARM 17.56.1001 and 17.56.1301, *et seq.*

5. **Variances**

A person may apply for a variance from a requirement or procedure of the underground storage tank program by requesting the approval of an alternative from the DEQ. Certain conditions apply.

Rule: ARM 17.56.105

6. Additional Information

A. Aboveground Storage Tanks

The Montana Department of Justice, Fire Prevention and Investigation Section regulates the installation, operation and removal of aboveground storage tanks to ensure safety from fire and verify compliance with the National Fire Protection Association (NFPA), Uniform Fire Code (UFC) 2003 Ed. The unauthorized discharge or release of flammable or combustible liquids and petroleum waste products must be handled as set forth in Section 60.1.9.3 of the UFC. Discharges or releases may also be regulated under the federal Clean Water Act in the event the discharge or release enters navigable waters.²

Contact: DEPARTMENT OF JUSTICE
Division of Criminal Investigation
Fire Prevention and Investigation Section

B. Petroleum Tank Release Cleanup Fund:

The state has established a Petroleum Tank Release Cleanup Fund to financially assist owners and operators with the cleanup and damages caused by an accidental tank release. Contact the Petroleum Release Compensation Board for information on qualifying for financial assistance with tank releases.

Statute: 75-11-301 through 321, MCA

Rule: ARM 17.58.101-343

Contact: PETROLEUM TANK RELEASE COMPENSATION BOARD

DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Hazardous Waste Site Cleanup Bureau

² Waters of the United States includes essentially all surface waters such as all navigable waters and their tributaries, all interstate waters and their tributaries, all wetlands adjacent to these waters and all impoundments of these waters (see <http://www.nwo.usace.army.mil/html/od-r/reg-intro.html#Waters>).